Case and Comment

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John Adams and American Constitutions*

By CHARLES WARREN

(Formerly Assistant Attorney General of the United States; author of "History of the American Bar, Colonial and Federal to 1860;" "The Supreme Court in United States History;" "The Supreme Court and Sovereign States;" "Congress, the Constitution, and the Supreme Court;" "The Making of the Constitution.")

WHEN I, a Massachusetts lawyer, was invited to address your State Bar, it seemed to me appropriate that I should choose as my topic American State Constitutions, and the work performed by a great lawyer of Massachusetts in relation to those early Constitutions.

At the present time the tendency among biographers seems to be not so much to praise famous men as to minimize their greatness and to emphasize their commonness. Oliver Goldsmith said of Dr. Johnson that he would make all his little fishes talk like whales. The modern biographer seems to try to make his whales talk like little fishes. Such writers were truly depicted, several years ago, by the immortal Mr. Dooley, who said: "Whin a lad with nawthing else to do starts out to write a biography about a gr-reat man, he don't go to th' War Departmint or th' public library. No, sir. He begins to search the bureau drawers an' old pigeonholes, th' records iv th' police court, an' th' recollections iv th' hired girl. . . . For wan page he'd print about love iv counthry, he'd print fifty about love iv drink."

In reaction against this style of treatment, it is good for us to turn our attention away from the small things which a great man shares in common with little men, and to consider some of the things which made him great.

One hundred and two years ago, on the 4th of July, as Thomas Jefferson died at the age of eighty-three in his beautiful home at Monticello, there lay dying in a modest frame house in the little town of Braintree, in Massachusetts, an old man approaching ninety-one—sturdy John Adams. For fifty-two years these two old statesmen had upheld the same ideals of American liberty, differing only as to the form of its administration. Only three months before their death they had closed a long and active correspondence with an exchange of letters, in which Jefferson had said that his health was indifferent, "but not so my friendship and respect for you;" and Adams had said, "Your letter is one of the most beautiful and delightful I have ever received."

Charles Warren

I invite your attention to three features in the life of John Adams, two of which were of immense historical importance in the life of this country, and the third of which has considera-

* Extracts from address delivered before the Kentucky State Bar Association at Lexington, Kentucky, April 5, 1928. Reprinted by permission of the author.

ble bearing upon present-day trends of legislation.

The Adams whom I wish to call to your mind is not the figure which party foes and Hamiltonian historians have misportrayed as simply a vain, pompous, formal, irritable, envious fighter, but rather the man of whom Jefferson wrote that he was "as disinterested as the Being who made him," that "his deep conceptions . . . and undaunted firmness made him truly our bulwark in debate," and that "to him more than to any other man is the country indebted for our independence; "the man whom Hamilton himself, writing in 1792, described as "a character pre-eminent for his early, intrepid, faithful, persevering, and comprehensively useful services to his country—a man pure and unspotted in private life, a citizen having a high and solid title to the esteem, the gratitude, and the confidence of his fellow citizens."

Of his supreme contributions to American liberty, the first is a fact often forgotten—that it was John Adams who gave George Washington to the nation. The story how this happened is of singular interest. On May 10, 1775, there met in Philadelphia the second Continental Congress. In spite of the fact that American blood had already been shed in the Concord and Lexington fight, this Congress was distinctly pacific. With the exception of a few radicals like Patrick Henry and Richard Henry Lee of Virginia, Christopher Gadsden and John Rutledge of South Carolina, and Samuel and John Adams of Massachusetts, most of the delegates were seeking to arrive at conciliation with Great Britain. The delegates from Pennsylvania, New Jersey, and New York, and half of Virginia were especially opposed to any move looking towards independence. There was lack of cohesion, co-operation, and sympathy between the colonies. Alone of all the delegates, John Adams, from very early days, had had the intuition and the historic imagination to perceive that the manifest destiny of the American colonies was ultimate independence, but also that such independence could only be obtained by union. Twenty years before, when a mere youth, he had written that the only "way to keep us from setting up for ourselves is to divide us." Now, at Philadelphia, his one idea and indefatigable effort was to promote that union which must lead to independence. He was the first nationalist, among all early American patriots. Three things, he saw, were necessary —that the colonies should throw away their royal charters and establish separate governments; that they should confederate as states; and that they should agree to fight for their independence in common. Far away in Massachusetts there was a little New England army headed by New England officers, besieging Boston. To nationalize this local rebellion, to nationalize this army, was Adam's chief thought. Yet everything seemed opposed to such an event. The Southern and Middle states, highly jealous and suspicious of New England, were intolerant of any continental army commanded by a New England general. If there was to be such an army, they favored as its head either General Charles Lee (then at Philadelphia), General Schuyler of New York, or Colonel George Washington of Virginia. New England, on the other hand, very reasonably insisted that, as they were doing the fighting with their own troops, the army should be led by one of their own officers, General Artemas Ward, John Hancock, or Israel Putnam.

It was John Adams, then, who grasped the opportunity to cement the union by sacrificing the interests of the men of his own colony. Listen to his story in his own words:

"Full of anxieties concerning these confusions, and apprehending daily that we should hear very distressing news from Boston, I walked with Mr. Samuel Adams in the state house yard, for a little exercise and fresh air, before the hour of Congress, and there represented to him the various dangers that surrounded us. He agreed to them all, but said, 'What shall we do?' I answered him

that he knew I had taken great pains to get our colleagues to agree upon some plan, that we might be unanimous, but he knew that they would pledge themselves to nothing; but I was determined to take a step which should compel them and all the other members of Congress to declare themselves for or against something. 'I am determined this morning to make a direct motion that Congress should adopt the army before Boston, and appoint Colonel Washington commander of it.' . . . Accordingly, when Congress had assembled, I rose in my place, and, in as short a speech as the subject would admit, represented the state of the colonies, the uncertainty in the minds of the people, their great expectation and anxiety, the distresses of the army. . . . I concluded with a motion, in form, that Congress would adopt the army at Cambridge, and appoint a general; that, though this was not the proper time to nominate a general, yet, as I had reason to believe this was a point of the greatest difficulty, I had no hesitation to declare that I had but one gentleman in my mind for that important command, and that was a gentleman from Virginia, who was among us and very well known to all of us, a gentleman whose skill and experience as an officer, whose independent fortune, great talents, and excellent universal character, would command the approbation of all America, and unite the cordial exertions of all the colonies better than any other person in the Union. Mr. Washington, who happened to sit near the door, as soon as he heard me allude to him, from his usual modesty, darted into the library room."

This was an act of the highest statesmanship. By sacrificing the claims and interests of the men of his own state, he secured union of action. No small man would have conceived or executed that bold stroke. Having thus informally placed Washington in nomination, Adams then, with great tact, persuaded a southerner, Thomas Johnson of Maryland, to make the formal nomination. And so it happened that, one day before the battle of Bunker Hill, Congress notified Colonel Washington (as stated in its Journal) of its "choice of him to be general and commander in chief to take supreme command of the forces raised and to be raised in defense of American liberty."

It was the choice of Washington, the Virginian, as commander in chief, which insured a national conduct of the war and an union of interest between the colonies. Not only, however, was it John Adams of Massachusetts who thus started this country on the road to becoming a nation, but it was also John Adams who made certain that this country should continue to be a nation instead of a collection of states. For, twenty-six years later, it was he who, as President, had the foresight to appoint John Marshall as Chief Justice of the United States. "My gift of John Marshall to the people . . . was the proudest act of my life," he said later. Nothing in our history is more remarkable than the fact that it should have been one man (and he a northern man from Massachusetts) who gave to our country the two great Virginians, Washington and Marshall, the two great builders of American nationality. If Adams had accomplished nothing more in his long life, his name would deserve to be indelibly stamped on the hearts of all Americans.

But his great service did not stop here. Not only was he the first nationalist, but he was also the first constitutionalist. It is very generally forgotten that to him this country owes the form of its state constitutions and of its Federal Constitution.

So familiar are we to-day with the framework of our state governments, with their governors, their two-branch legislatures, and their independent judiciary, that we unconsciously assume that it was inevitable and necessary that the American colonies should adopt that form when they revolted from Great Britain. The fact is quite the contrary. For, in 1775 and 1776, when the royal charters ceased to operate, the antagonism of the colonists to the broad powers exercised by the royal governors and the royal judges, and to the restrictions on the action of their colonial legislative bodies, was so great that

most of them adopted, as their temporary form of government, a single-branch house of representatives, without any governor, which not only made the laws, but executed them (either through a council, or committees, or officers chosen by itself).

When the question arose as to what permanent form of government the states should adopt, there was presented a problem new in history.

Fortunately, there was in Congress one man, and one alone, who all his life had made a profound study of the theory of government. At the age of twenty-three, John Adams had written in his diary as a goal for his future: "Aim at an exact knowledge of the nature and means of government. Compare the different forms of it with each other, and each of them with their effects on public and private life." The principles of government, he wrote later, were to be learned not so much from the conclusions of philosophers and political scientists as from the observation and study of "human nature, society, and universal history." Now, after twenty years of such study, he was in a position to advise and secure its fruition. Most of the colonies, in 1775, sought the opinion of Congress as to the form of government they should adopt. That cautious body declined to give any definite view. Accordingly, the delegates turned to Adams; and from the summer of 1775, through the spring of 1776, he was consulted by South Carolina, Virginia, North Carolina, Pennsylvania, New Jersey, New York, and New Hampshire.

It was a novel and unknown thing, at that time, this business of constitution-making. How novel it was may be gathered from what Adams wrote in his Autobiography:

"Although the opposition was still inveterate, many members of Congress began to hear me with more patience, and some began to ask me civil questions. 'How can the people institute governments?' My answer was, 'By conventions of representatives freely, fairly, and proportionately chosen.' 'When the convention has fabricated a government, or a constitution rather, how do you know the people will submit to it?' 'If there is any doubt of that, the convention may send out their project of a constitution to the people in their several towns, counties, or districts, and the people may make the acceptance of it their own act.' 'But the people know nothing about constitutions'. . . . 'I believe that in every considerable portion of the people, there will be found some men who will understand the subject as well as their representatives, and these will assist in enlightening the rest.' 'But what plan of a government would you advise?' . . . 'A government in three branches ought to be preserved, and independent judges.' 'Where and how will you get your governors and councils?' 'By elections.'"

In this manner, Adams outlined, for the first time in history, the precise course which American states later followed in the formation of their constitutions. To leading men in each colony, Adams wrote long letters, setting forth his views as to the proper form of government for the new states. These letters, then printed and widely distributed, outlined certain fundamental principles which today seem axiomatic and trite, but which were not so then.

John Adams was the first statesman to explain clearly to the people why, if they were to institute a republican form of government, they must keep the three branches of government, the executive, the legislative, and the judiciary, separate and independent. To have a republic, you must eliminate arbitrary power and unchecked authority. But, as Adams pointed out, any government in which one body (whether a King or a legislature) both makes the laws and executes them, is essentially an arbitrary government. It is the essence of a free republic, on the other hand, that no man or set of men shall ever have the power both "to make the law, to decide whether it has been violated, and to execute judgment on the violator." To preserve liberty to the people, there must be restraints and balances and separations of power. Accordingly, the frame of government

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Citation of Leading Cases

By HON. EVAN A. EVANS

AT A SESSION of the United States Court of Appeals for the Seventh Circuit, in Chicago, the Honorable Evan A. Evans, presiding, made a series of valuable suggestions upon compliance with the rules of court in the matter of the preparation of briefs. He said in part:

In the argument our request is for a reduction in the number of citations and in placing emphasis on your leading case or cases. We think we are not asking too much when we request you to single out, before citing other authorities, your best case or your chief reliance. *This leading case citation should be italicised and separated from the other citations.*

Doubtless all of you have witnessed a quiz on cases conducted by the members of this bench. If you have, you must have been impressed by inability of counsel to state the facts or the holdings of the cases cited in his brief. How could counsel meet the test when he has cited from 250 to 350 cases? Recently we heard a case involving a single issue—the application of the law of a state—and 250 cases were cited.

If our suggestion is followed, it will not only result in shortening your brief but it will invariably lead to a much more careful study of the leading case and much greater confidence on your part in citing and stating your chief reliance.

In these days when the reported decisions have become so numerous as to require thousands of volumes of reports, it is a waste of time to multiply citations to legal propositions concerning which there is no conflict in the authorities. Naturally in preparing your brief before beginning suit, and in preparation for the trial, you must read a great number of decisions. But when you have completed your study and find no conflict in the authorities, a citation of all of the cases you have read is not only unnecessary but it is inexcusable.

Often a single citation is sufficient. However, it should be made only after a study has convinced you that it is pre-eminent among the pertinent citations by reason of the position of the court or the extraordinary persuasiveness of the holding.

Not long ago we were told that the Supreme Court of the United States had announced a rule that petitions for certiorari would be denied without examination if they contained more than a designated number of pages. Shortly after this rule was announced, certain lawyers from Chicago filed a petition wherein the number of pages exceeded the maximum fixed by this rule. The attorneys learned of the rule and asked to withdraw their brief. Their request was granted and another brief substituted. The second one contained less than one-third the number of pages of the first. The remarkable thing about it was that the attorneys who prepared the two briefs stated the second brief was better and clearer than their first.

With the number of cases presented to appellate courts increasing each year, the importance of brevity and clarity increases. The brief that attempts to cite every case dealing with the subject-matter in litigation, and to quote copiously from each of the decisions, is hopeless. Instead, the effort should be to select from the mass of decisions that deal with such subject-matter, only those which, by reason of their excellence, have a finality which no worthy adversary will question.

—Extract from The Chicago Bar Association Record.

The New Civilization and the Lawyer*

By HON. FREDERICK F. FAVILLE
Judge of the Supreme Court of Iowa

I AM going to engage in a dangerous experiment tonight. I am going to ask you to be patient with me while I make what I know to be some platitudinous observations. I want to talk to you, if I may, not as a lawyer or a judge, not with any attempt to bring to you any sage advice from a foreign state, but I want to talk to you, men and women, judges, lawyers, and laymen, alike, about what I believe to be the most important thing before the American people to-day. We are engaged in doing something besides making money, besides maintaining homes, besides rearing families, besides trying to keep in good health; we Americans are engaged in the most tremendous experiment the world has ever seen; we are busy with the daily struggle, with the trial of this case, with the preparation of the next, with a business adventure, but out of it all there is the great movement to determine whether or not this tremendous experiment of all the ages shall be a success or not.

I take as authority for what I am to say to you, Mr. H. G. Wells, the historian. He says:

"The great community of the United States is an altogether new thing in history. There have been great empires before, with populations exceeding a hundred millions, but these were associations of divergent peoples; there has never been one single people on this scale before. We need a new term for this new thing. It is as different from a country, as France or Holland is a country, as a one-horse shay is different from an automobile. The United States, in scale and possibilities, is halfway between a European state and a United States of all the world."

Now, we are engaged in carrying out, if Mr. Wells is right, this tremendous experiment, which, if I may put it in one phrase, is an attempt to build a new kind of civilization for the race. It is not a question of what shall be the law of Michigan or of Iowa, or how the court may interpret a statute in one state or another, but basically and fundamentally, my friends, we are engaged in trying to solve this experiment of all the ages.

May I prove this proposition? You all have been interested in the last few years in reading of the marvelous explorations that have been made in ancient Egypt. For 3,500 years the drifting sands of the desert hid the evidences of a marvelous civilization, and for 3,500 years the wandering Bedouin led his camel up and down the valley of the Kings, little dreaming that beneath his feet lay the evidences of a marvelous civilization that had fame and power and education and religion 3,500 years before.

You will pardon me if I may be so sophomoric that even upon this occasion I refer to ancient Rome, with a hundred million of people, almost exactly the same as we have now; Rome, with an empire that stretched from the deserts of Africa to the North sea; Rome with her great military power; Rome that stood upon her seven hills and boasted that she was the eternal city; ancient Rome with a civilization that touched the whole known world; Rome could never fail; and still for nearly 2,000 years that civilization has been a matter for the student of history.

And then, again to be sophomoric,

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there was the civilization of Greece, with which you are all familiar; Greece that was so well educated in culture and art, its great basis of civilization, and that was so perfect in the things it did that the shattered and broken fragments of its art are still used as a model for those who would excel, even in this day. And yet this civilization has been gone for centuries. And so I might recall other ancient civilizations.

I want you to recall with me the time just before this experiment took place; the time after Spain, by the loss of her invincible armada, had failed in her attempt to fasten her monarchial grip forever on Western Europe; after France had driven out the Huguenots; the time when Russia was seeking an effective opportunity to destroy poor, helpless little Poland; the time when England, secure in a commanding position in Europe, had just extended her colonial possessions in the New World; the time after the Reformation had come and taught the individual the right to think for himself; the time after the barons had wrung the Magna Charta from King John upon the field of Runnymede; the time after our forefathers had set the sails of the Mayflower, and in the little cabin of that storm-tossed boat had signed that immortal compact of the rights of men as they stood in the presence of God and of each other; it was a time after our forefathers had declared to the world, as a new philosophy of government, that all men had certain inalienable rights; a time after Washington had received the sword of the broken-hearted Cornwallis beneath the elms and pines at Yorktown—now, at such a time as this, this new experiment of the ages was launched upon the buffeting billows of the sea of time, 150 years ago. Our problem, my friends, is the problem of showing to the world whether this experiment, of 150 years only, shall go with the civilizations of the past, and join itself with Egypt and Rome and Greece, and the vanishing civilizations of other years, or whether it shall be saved for the race.

Hon. F. F. Faville

Now, I firmly believe,—not as an alarmist at all,—but I believe we have the courage and the ability, the foresight and the patriotism, to save this civilization for the race.

We are confronted with some things that give us pause and cause to study. Some of these are deemed by some people to be weaknesses. I think they are largely a tower of strength. One hundred and fifty years ago when our forefathers adopted the Constitution of the United States, they had a nation of thirteen small, thinly populated colonies, extending from Maine to Florida, and enshrouded by a debt of $38,000,000, with resources unknown and unexplored; and from that feeble beginning we have grown, materially, to this matchless empire of which we boast so much.

My father was an Iowa pioneer. The governor has boasted of his heritage, and so I may claim my own, I think, as well. His business was to come out with others from New England into the then wilderness, of which our toastmaster spoke. It was the same thing in Michigan. Their big job was to wring from Mother Nature a sustenance. They built schoolhouses and churches, and the best things God ever gave to humanity, homes. And from those humble beginnings, within a generation, within your lifetime, Mr. Toastmaster, and mine, we have evolved this matchless thing that we call the United States.

We have tunneled the mountains; we have bridged the rivers; we have bound East and West, North and

South, together, by unbroken bands of steel. We have made this vast material progress. Not only that, we have led the world with these new things that we have brought to the race. Within my lifetime this has occurred. May I just briefly,—but not to resort to jingoism or spread-eagleism, or 4th of Julyism—may I review what we are doing this moment? American cars are running on American-made rails past the great wall of China, down the valley of the Nile, and across the steppes of Russia; the whistle of American-made locomotives is disturbing the silences that for 6,000 years held sway in the Pyramid of Cheops; bread from American-made flour is eaten to-day in the forests where the ancient Norseman held his rude, barbaric banquets, and in the wilderness where the children of Israel fed on manna from heaven. Typewriters of American make are used by every people on the earth who know enough to have an alphabet, and American telephones transmit messages in every land. The American-made automobile, a product of your state of Michigan, has literally driven the camel off the deserts. The name "Michigan" is known in every quarter of the globe, and the American airship not only circles the North Pole, but an American boy sticks two ham sandwiches into his pocket, jumps into an American plane, and alights in Paris for breakfast. At this moment the Eskimo within the Arctic circle is listening with astounded ears to American-made jazz music sent to him by the mechanism of this mysterious thing that hangs in front of me, and at the same moment the Hottentot of South Africa can very appropriately dance his native dance to that same American music.

My brethren, we must carry with this world-wide commerce, and do carry with it, our American conception of right and justice and fair dealing among men.

And so we have come at this day to all these perplexing things. I spoke of the pioneer who went out to wring from the forest, from the boundless forests of Michigan, and the sweet prairies of Iowa, a livelihood. We are sending young men and women now,—in this day of immense wealth, when we have a larger per capita wealth than any other nation on earth,—we are sending them out to meet the problems of justice and right. To be concrete, we are facing now this much-debated question of farm relief. How it shall be solved I do not know. Somebody must solve it equitably and right. We are facing the great problems of the world, and they must be solved rightly. In my state, at this moment, we are facing the problem of the chain store driving the little grocery out of business, and we are seeing constantly the drift in my own state from the farm to the city, for a great rural state like mine now has 51 per cent of its population in the cities. We praise the courage required of the pioneers who went out into the great frontiers and built homes. Now, it takes the courage and foresight and wisdom and faith and patriotism of men and women who believe in America to face these problems of this day, infinitely more intricate than those of the pioneer, and to solve them by the same sublime principles of law, justice, equity, and righteousness among men. That, my friends, if I mistake not, is a very large part of the duty that rests upon the lawyer in this day and age.

In all sincerity, my brethren of the bar, I say to you that the great problem of America to-day is not to make more wealth, for that can easily be done. Rome had wealth, Babylon had wealth, Egypt had wealth, Greece had wealth; but the great problem of America to-day is to see to it that law and justice and equity and righteousness are maintained in this kind of a civilization.

"Oh," you say (and it is frequently said to me): "It may be that our wealth will not be our salvation, but, to use the vernacular of the street, we are not only the richest, but the most powerful, people on earth, and we could lick the world with one hand

tied behind us." I glory in the boast. We *are* the most powerful people on earth. At the call of righteousness and of justice we could whip the world. I am not forgetting that. My memory of the days not so long ago is clear, and I can recall those dreadful hours when it seemed as though the kind of civilization we believe in was to be no more, with the hordes beating against the very gates of Paris, when Foch hurled the youth of America into the trenches, and saved Democracy for the ages. Oh, yes, we are the most powerful people on earth, and, my brethren, Rome was great because of her army and navy. The world must move to a different kind of conception of civilization. But do not misunderstand me. I am not one of those referred to as being a pacifist, although I think the term is often much abused, I believe in ample protection and preparedness for the defense of this nation; but, oh, I thank my God that I have lived to see the time when the nations of the world, within the past few days, have gathered solemnly about a council table and affixed their signatures to a treaty which provides that disputes between nations, as disputes between men, can be settled by the sober and solemn processes of the law, rather than by the arbitrament of the sword.

And it should be regarded as the crowning achievement of our profession that we have been able to bring the world to see, under the leadership of America, that law, righteously enforced, can be administered between all the nations of the earth without men cutting each others' throats to settle disputes.

Day before yesterday, if the papers report it correctly, a great lawyer from the city of Chicago said to the South Dakota Bar Association,—I am not attempting to quote him correctly because I have only a newspaper account for it, and with all my belief in the infallibility of the newspapers, I know they sometimes do err,—it is reported that this great lawyer of Chicago said to the South Dakota Bar Association that crime would be abolished, law upheld, and our civilization would be made safe, solely by the education of our youth. Do not misunderstand me again, for I do not disparage education. I glory in the fact that in my state we boast a schoolhouse on every hilltop. May I pause, however, parenthetically, to say that, in my judgment, it is quite a far cry from the picture we have of Abraham Lincoln studying Euclid by the light of a pine torch in a Kentucky cabin, to the classical educational phenomenon of a Red Grange in a million-dollar stadium, performing athletic feats before 80,000 people. Now, do not misunderstand me about that. I believe in our great universities, the common schools, and universities, the common schools, and man from Chicago heartily; we must educate all of our people, but there is a danger that our education may not be the sole remedy for inequality and injustice. Much as we may educate, we shall lose our opportunity if we think that we can turn over to the schools the responsibility of saving this kind of a civilization for the race.

And may I go one step further? The President of the United States not long ago said: "The foundation of all progress, all government, and all civilization is religion. It is only in that direction that there is hope of solution of our economic and social problems." I beg you not to misunderstand me in that regard. I share with the governor the honor of being a member of the Presbyterian Church, and I glory that he has had the courage to appoint the best man to office, regardless of what his religion may be; that is a thing of which Michigan people should be mighty proud. But we cannot shut our eyes to the fact that the last twenty-five years have seen some changes in the religious sentiment of the people in the United States of America. I deplore it. It is regrettable, but the fact is that the people of the Orient have, with good cause, said that the Christian nations of the earth flew at each others' throats, and forgot that they were followers of the barefoot

peasant who received the highest encomium when he was called the Prince of Peace.

But I believe the time will come—I still believe in the millennium—I believe the day will dawn when the nations of the earth will bow their heads reverently before this peasant of Galilee; and, my brethren, while that time has not yet come, you and I shall help it forward because we are believers in the fundamental thing that he taught, righteousness between man and man. So these things of power and wealth and education and religion will not save our civilization, for all these nations of ancient times had these. How, then, shall it be saved, if at all?

May I say to you that sober-minded students of affairs seriously raise the question as to whether we can save this complex civilization? Do not think I am a pessimist; we shall save it, but, my brethren, I say to you that no matter how rich or powerful we may be, or how well educated, or how religious, our citizens may become, we will save it only when we save the rights of men by the upholding and enforcement of law. When we break that barrier we will have destroyed our chance.

. . . . . .

My brethren, if I mistake not, this is the testing time, this is the crucial point of whether this great thing, that has only been tried for 150 years, shall go on through the ages.

I close with these words of a great American lawyer, one who in the last few days has received practically unanimous nomination to be called to the wide field of activity as a member of the World Court, the Honorable Charles E. Hughes. He said this to the American lawyers:

"We are free citizens of a Republic, with an unprecedented opportunity for orderly progress, and for an ever wider diffusion of prosperity, which are impossible save as justice is adequately served. Let us rise to our opportunity, and as guardians of the traditions which constitute the precious possession of our democracy, play our part in establishing and making secure the authority of law as the servant of liberty, wisely conceived, as the expression of the righteousness which exalteth a nation."

Thus my brethren, the experiment will be a verity, and last through the ages.

Oh, I think we stand at the dawning of that time when this Republic shall lead all the nations of the earth into a grander, better, nobler civilization for the race. The music of that march of the nations shall, I hope, never again be the drumbeat of war, but may it be the song of industry, and the sweet, mellow chimes of Christianity. May commerce, philanthropy, education, and development march hand in hand; may wealth and power and education and religion all join with justice in leading America into the full measure of the glorious opportunity that God Almighty has given to her among the nations of the earth.

Among the New Decisions

It is better that a judge should lean on the side of compassion than severity.
—Cervantes.

Automobiles — *moving — ejection from — malice.* To force anyone from a rapidly moving automobile is held in the New Jersey case of Iaconia v. D'Angelo, 142 Atl. 46, to subject him to hazards more or less serious; such an act, therefore, if the conditions are known, is malicious and wrongful.

Liability for forcing trespasser from moving automobile is discussed in the annotation following this case in 58 A.L.R. 614.

Automobiles — *skidding as evidence of negligence.* The mere fact that an automobile skids and causes injury is held not to be evidence of negligence in Barret v. Caddo Transfer & Warehouse Co. 165 La. 1075, 116 So. 563, to which is appended annotation in 58 A.L.R. 261 on liability for damage or injury by skidding motor vehicle.

Banks — *liability for refusal to pay check.* A bank refusing to pay the check of its depositor who has sufficient funds on deposit is held to be liable for breach of contract in Woody v. National Bank, 194 N. C. 549, 140 S. E. 150, which is followed in 58 A.L.R. 725 by annotation on liability of bank to depositor for dishonoring check.

Contempt — *published report — criticisms and threats calculated to control decisions.* A superintendent of an association, who, in his annual report, designed for distribution, misrepresented and criticized certain decisions of the supreme court, and by veiled threats of defeat for re-election attempted improperly to influence its decisions in similar cases which were pending or which might be filed later, is held to be guilty of indirect contempt of court in the Indiana case of State v. Shumaker, 157 N. E. 769.

Criticism of attitude of the court or judge toward violations of liquor law as contempt is the title of the annotation appended to this case in 58 A.L.R. 954.

Contracts — *compensation for services.* A deputy sheriff, it is held in the Arkansas case of Bryan v. Akers, 7 S. W. (2d) 325 has no authority in law to make a charge for his personal services in securing a stolen automobile for the return of which no reward was offered, and, having made no express contract with the owner, and none being implied under the circumstances, has no right to retain possession of the car, demanding compensation for such services.

Right of officer to compensation for services in recovering stolen property is treated in the annotation appended to this case in 58 A.L.R. 1124.

Contracts — *release — of liability for damages.* An agreement by an employer to reinstate an employee and allow him to continue in his employ-

ment after he claims to have sustained an injury, under the same conditions as existed prior thereto, is held in Carlson v. Northern P. R. Co. 82 Mont. 559, 268 Pac. 549 to be a sufficient consideration to sustain a release of the employer from liability for the injuries.

Employment or reinstatement as consideration for release of claim for injuries is the subject of the annotation, which accompanies this case in 58 A.L.R. 1304.

Contracts — *to execute written one — validity.* A parol agreement to execute a written contract for advertising rights which is not to be performed within a year is held to be invalid under the Statute of Frauds in Union Car Advertising Co. v. Boston Elev. R. Co. 26 F. (2d) 755.

Annotation on oral contract to enter into written contract as within Statute of Frauds accompanies this case in 58 A.L.R. 1007.

Corporations — *stock subscriptions — note as consideration.* A good and collectable note of a subscriber or of a third person is held in the Delaware case of Sohland v. Baker, 141 Atl. 277, to be a good consideration for the issuance of corporate stock, unless prohibited by the corporate charter or some constitutional or statutory provision.

The annotation accompanying this case in 58 A.L.R. 693 treats of a note as considefation for issuance of corporate stock under statute forbidding issuance of stock except for money paid, property received, etc.

Easements — *adverse user.* Adverse user for the statutory period of ten years may, it is held in the Nebraska case of Dunbar v. O'Brien, 220 N. W. 278, create an easement consisting of the right of a lot owner to enter upon a vacant strip of another's adjoining lot and use it for the purposes of painting the former's house on the boundary line, washing windows, and making necessary repairs.

Annotation on easement by prescription for use of land near boundary line follows this case in 58 A.L.R. 1033.

Electricity — *refusal to supply — excessive cost.* A power company which by the ordinance granting its franchise has agreed to furnish electricity to private consumers within the corporate limits of the municipality at a specified rate is held in Arkansas-Missouri Power Co. v. Brown, 176 Ark. 774, 4 S. W. (2d) 15, not to be entitled to refuse a demand for such service at a remote point, on the ground that the probable expense of furnishing it would greatly exceed the revenue to be derived therefrom.

This case is followed in 58 A.L.R. 534, by an annotation on duty to extend electrical service or supply individual applicant as affected by cost involved.

Eminent domain — *mortgage interest as property.* The interest of a mortgagee in property sought under the power of eminent domain is property within the meaning of constitutional and statutory provisions prohibiting the taking of property for public use without compensation, it is held in the Missouri case of Morgan v. Willman, 1 S. W. (2d) 193, which is accompanied in 58 A.L.R. 1518, by annotation on protection of rights of mortgagee in eminent domain proceedings.

Estoppel — *to dispute passing of after-acquired property.* One having a leasehold of real estate is held not to be estopped by his grant of his right, title, and interest in the property, to dispute the passing of an after-acquired title in United States Nat. Bank v. Miller, 122 Or. 285, 258 Pac. 205, to which is appended annotation in 58 A.L.R. 339 on nature of conveyance or covenants which will create estoppel to assert after-acquired title or interest in real property.

Infants — *members of partnership — disaffirmance of partnership contract.* Minors who enter into a contract of partnership for the sale

of automobiles with one who undertakes to conduct the business under a trade name cannot, it is held in the Iowa case of Kuehl v. Means, 218 N. W. 907, rescind a contract for the purchase of cars from a dealer who contracts with the concern, with no knowledge of their interest in it.

Annotation on law of infant's contract as applied to contract of, or by, partnership is attached to this case in 58 A.L.R. 1359.

Landlord and tenant — *effect of tenant's negligence.* That contributory negligence by a tenant in attempting to use defective appliances maintained by the landlord for the common use of tenants, will defeat a recovery against the landlord for personal injuries thereby received, is held in Richmond v. Standard Elkhorn Coal Co. 222 Ky. 150, 300 S. W. 359, to which is appended in 58 A.L.R. 1423 annotation entitled contributory negligence of plaintiff as defense to action for personal injuries on account of defective condition of part of the premises within the landlord's control.

Libel — *privilege — search and seizure proceeding.* A search and seizure action before a justice of the peace, in which a warrant has been issued by the justice and a return has been made thereon, is held in Stone v. Hutchinson Daily News, 125 Kan. 715, 266 Pac. 78, to be a "judicial proceeding" in the sense of considering testimony given and papers filed therein as privileged.

This case is accompanied in 58 A.L.R. 718, by annotation on proceeding to obtain search warrant as judicial proceeding within rule of privilege in libel and slander.

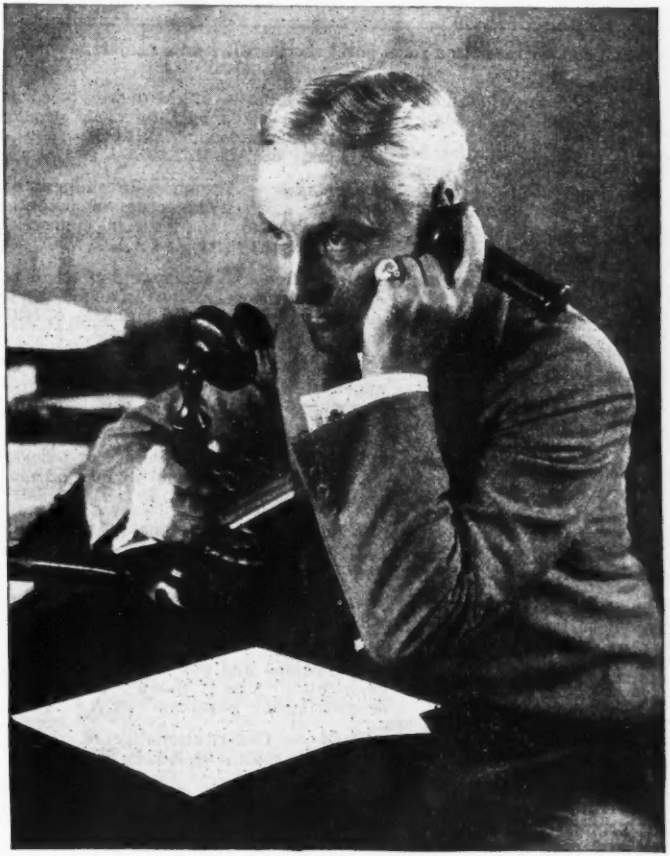
Nuisances — *newspaper.* That a newspaper business conducted in violation of Laws 1925, chap. 285, is a public nuisance is held in the Minnesota case of State v. Guilford, 174 Minn. 457, 219 N. W. 770, which is followed by annotation in 58 A.L.R. 607, on newspaper or magazine as a nuisance.

Search and seizure — *consent — wife's property.* A man from whom his wife is seeking a divorce cannot, it is held in the Michigan case of People v. Weaver, 241 Mich. 616, 217 N. W. 797, consent to the search, without a warrant, of premises owned by her.

Authority to consent for another to search and seize is discussed in the annotation following this case in 58 A.L.R. 733.

Vendor and purchaser — *brokers — lien on purchase money.* A broker who is to receive all above a specified price as his commission for selling real estate may, it is held in the Alabama case of Moss v. Thomas, 117 So. 648, enforce a vendor's lien on the property for such sum as a part of the purchase money.

Annotation on broker's lien to secure his compensation for procuring sale of real estate accompanies this case in 58 A.L.R. 1495.



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A.L.R. Annotations in Volume 58 Include These Subjects:

Annotation concentrates to a focal point the learning on a subject.

Acknowledgment — Acknowledgment or oath over telephone. 58 A.L.R. 604.

Automobiles — Civil rights and liabilities as affected by failure to comply with regulations as to registration of automobile or motorcycle, or licensing of operator. 58 A.L.R. 532.

Automobiles — Driving automobile at a speed which prevents stopping within length of vision as negligence. 58 A.L.R. 1493.

Bailment — Validity and effect of acceleration clause in lease or bailment. 58 A.L.R. 300.

Banks — Liability of correspondent bank to depositor in forwarding bank for breach of duty as to collection of paper. 58 A.L.R. 764.

Banks — State statutes relating to preferences among claims against insolvent debtors as affecting liability on stock in national bank. 58 A.L.R. 563.

Banks — Who are "depositors," or what constitutes "deposit," within provisions imposing upon the stockholders of a banking institution additional liability for the payment of depositors. 58 A.L.R. 1389.

Bills and notes — Negotiability as affected by provision in relation to interest or discount. 58 A.L.R. 1281.

Bills and notes — Rights as between one who deposits commercial paper for collection without any indication on the paper of that purpose, and one who takes it in good faith from the depositary. 58 A.L.R. 259.

Business trusts — Massachusetts or business trust. 58 A.L.R. 518.

Constitutional law — Validity of statute or ordinance in relation to resale of tickets to places of amusement. 58 A.L.R. 1255.

Coram nobis — Right to writ of coram nobis as affected by intentional or negligent failure to bring facts to attention of court. 58 A.L.R. 1286.

Damages — Damages in eminent domain as affected by actual or potential value of riparian rights in connection with other property. 58 A.L.R. 796.

Dedication — Validity and effect of restrictions or reservations in dedication of property in respect of right to operate public utilities. 58 A.L.R. 854.

Easements — Implied easement in respect of drains, pipes, or sewers upon severance of tract. 58 A.L.R. 824.

Eminent domain — Furnishing electricity to public as public use or purpose for which power of eminent domain may be exercised. 58 A.L.R. 787.

Evidence — Competency of interested witness to testify as to signature or handwriting of decedent. 58 A.L.R. 210.

Exemptions — Who is "employee" within debt exemption statute. 58 A.L.R. 777.

Explosions and explosives — Validity of regulations as to manner of handling or distributing gasolene. 58 A.L.R. 860.

Food — Constitutionality of regulations as to milk. 58 A.L.R. 672.

Fraud and deceit — Construction and effect of affirmative provision in contract of sale by which purchaser agrees to take article in the condition in which it is. 58 A.L.R. 1181.

Highways and streets — Liability of property owner who, in discharge of a duty and not of a privilege, makes an opening in the sidewalk. 58 A.L.R. 151.

Highways and streets — Rights and duties at intersection of arterial (or other favored) highway and nonfavored highway. 58 A.L.R. 1197.

Highways and streets — Use of space within lot lines, as part of public sidewalk as affecting owner's responsibility for its condition. 58 A.L.R. 1042.

Holidays — Judicial, execution, or tax sale on election day, holiday, or Sunday. 58 A.L.R. 1273.

Insurance — Liability under accident policy, or accident feature of life policy, for injury or death from freezing. 58 A.L.R. 1211.

Judges — Authority of judge in respect of unfinished business of another judge. 58 A.L.R. 848.

Jury — Right to waive trial by jury in criminal cases, and effect of waiver upon jurisdiction of court to proceed without a jury. 58 A.L.R. 1031.

Landlord and tenant — Acts of other tenants as chargeable to landlord. 58 A.L.R. 1049.

Landlord and tenant — Liability of landlord for personal injuries due to defective halls, stairways, and the like, for use of different tenants. 58 A.L.R. 1411.

Landlord and tenant — Permissive character of use as affecting landlord's liability to a tenant, or one in privity with him, for personal injuries received in part of premises remaining in landlord's control. 58 A.L.R. 1433.

License — Validity of license tax or fee on show or place of amusement. 58 A.L.R. 1340.

Liens — Right of conditional seller of chattels attached to realty to claim lien on the realty. 58 A.L.R. 1121.

Marriage — Concealment of or misrepresentation as to previous marriage or divorce as ground for annulment of marriage. 58 A.L.R. 326.

Mayhem — Mayhem as dependent on part of body injured and extent of injury. 58 A.L.R. 1320.

Mortgage — Taxes not ascribable to property sold as a charge on proceeds of judicial or foreclosure sale. 58 A.L.R. 1220.

Negligence — Duty and liability respecting condition of store or shop. 58 A.L.R. 136.

Partnership — Actions at law between partners and partnerships. 58 A.L.R. 621.

Robbery — Retention of property, or attempt to escape, by force or putting in fear as equivalent to taking in that manner for purposes of robbery. 58 A.L.R. 656.

Search and seizure — Scope or extent, as regards books, records, or documents to be produced or examined, permissible in order for inspection. 58 A.L.R. 1263.

Statutes — Constitutionality and construction of statute enhancing penalty for second or subsequent offense. 58 A.L.R. 20.

Succession taxes — Consideration as affecting the liability to succession or inheritance tax. 58 A.L.R. 1143.

Taxes — Sales tax on conditional or instalment sales. 58 A.L.R. 1047.

Unlawful assembly — What constitutes offense of unlawful assembly. 58 A.L.R. 751.

Wills — Contest based on probable cause and in good faith as within provision of will forfeiting share of contesting beneficiary. 58 A.L.R. 1555.

Wills — Right of executor or administrator to contest the will of his decedent. 58 A.L.R. 1462.

Workmen's compensation — Construction and effect of specific provisions of workmen's compensation acts in relation to employees of independent contractors or subcontractors. 58 A.L.R. 872.

Workmen's compensation — Injury received while doing prohibited act. 58 A.L.R. 197.

Workmen's compensation — Liability of general or special employer for compensation to injured employee. 58 A.L.R. 1467.

Workmen's compensation — One employed concurrently or jointly by several. 58 A.L.R. 1395.

Workmen's compensation — Serious and wilful misconduct of employer warranting increased compensation or action at law. 58 A.L.R. 1379.

Death of Henry E. Randall, Vice-President of the West Publishing Company

A NATIVE of Norway, Mr. Randall came to this country while a very young man. Graduating from Columbian University Law School (now George Washington) at Washington, D. C., in 1882 he began the practice of his profession in St. Paul. Five years later he joined the Editorial Staff of the West Publishing Company, of which for twenty-five years he was destined to be Editor-in-Chief.

Mr. Randall's labors in the field of legal literature were broad in extent and enduring in quality. As the head of the Editorial Staff of the American Digest System during the period when the plans for the Century Digest were being carried out, and those for the Decennial Digests with their uniform system of sections were being formulated, his sound judgment and large experience were important factors in bringing to a successful conclusion the greatest digesting enterprise the country has ever known.

Under his direction, also, the work of editing the decisions of all of the courts of last resort, State and Federal, was carried on for nearly a quarter of a century. Either of these would have ranked as a notable achievement.

He took an active interest in the work of the American Bar Association and especially in its effort to cut down the volume of the case law through the writing of shorter and better opinions.

He was an early advocate of the plan of the American Law Institute for the restatement of the law.

At the close of his life law books were being better prepared and better edited than when he entered this field of endeavor, and to this betterment he might justly feel that he had made a great contribution.

Mr. Randall died at his home in St. Paul on February 21, 1929.

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While the general principles of the law of insurance, at least with respect to the older and more common forms, may be regarded as fairly well settled, nevertheless there are many new ones that have developed to meet new conditions, with the result that insurance contracts, still constitute one of the most prolific sources of modern litigation. Out of this seeming wilderness of cases the writer has sought to create a treatise that will serve both as a text and a search book.

It has been deemed most advantageous to the user to present a text statement of the law based on the principles laid down in the leading cases, with such detailed precedents as are necessary for illustration, together with a practically exhaustive treatment of the cases decided within the past ten or twelve years. The aim has been to follow very closely the spirit and meaning of the judicial decisions, and to have the citations directly and fully sustain the language of the text. The cases cited have been arranged in alphabetical order according to jurisdiction.

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A comparatively new feature is the cumulative pocket supplement in the back of each volume, by means of which the whole treatise will be annually supplemented by inclusion of the new decisions.

John Adams and American Constitutions

(Continued from page six)

which Adams submitted to those who consulted him provided for a governor, with power to veto and to appoint officials; a legislature, consisting of two branches (one as a check upon the other), each eventually to be elected by the people; and a judiciary, independent, and chosen during good behavior. Such a form of constitution differed widely from anything which the colonies had theretofore considered. Yet, between May, 1776, and December, 1777, practically all the colonies, save Pennsylvania and Georgia, adopted Adams's plan, in general, in drafting their states' constitutions. New York conformed to it very closely; and Massachusetts, in 1780, adopted as its Constitution the very draft which Adams wrote for it. Moreover, when, in 1787, the Federal Convention met at Philadelphia to frame the Constitution of the United States, it was the Massachusetts and the New York state Constitutions to which the delegates resorted for the form and much of the wording of the immortal document which they signed. And if you will examine your first Constitution of Kentucky of 1792, you will find that it does not resemble, either in form or in substance, the first Constitution of Virginia (from which state you separated, and many of whose statutes you adopted). But, divided into articles and sections, containing separately in one article the provisions as to the legislature, in another as to the executive, in another as to the judiciary, and in another the Bill of Rights, it resembles more the Constitution of Massachusetts of 1780 than any other state Constitution then in existence. To-day, the framework of the constitutions of almost all our states follows that drafted by John Adams in 1780. Rightly may he be termed "the architect of American constitutions."

And now, in connection with present-day problems, I wish to call your attention briefly to a principle which John Adams embodied in his Massachusetts Constitution. At its very outset he set forth that principle of separation of powers which he had preached, day in and day out, to the delegates of the Congresses of 1775 and 1776:

> "In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws and not of men."

"To the end it may be a government of laws and not of men." Those are great words. Though he did not originate the sentiment, Adams was the first and the only man ever to place them in a Constitution. They are the essential definition of the American system of government. They have been often quoted; yet they cannot be too often impressed on our minds. For they mean that, in this country, there is no right to the exercise of arbitrary power.

But, to constitute a "government of laws and not of men," not only must the executive and executive officers be prevented from usurping legislative powers, but the legislature must be careful not to transfer its powers to the executive, so as to enable the latter to be in the position of making his own laws and then enforcing them. Of late years there has been a decided tendency in Congress to bring about this latter condition, and this increasing tendency deserves more careful consideration than has hitherto been given to it. Let me mention briefly, for example, a few instances in which Congress has practically transferred to the executive the power of making laws. (I omit entirely the striking instances of transfer of power to the President during the late war.) In 1912, Congress gave the President power to reorganize the whole customs service and abolish needless posts and offices, at his discretion. In 1912 and

1916, Congress gave the President power to prescribe the Panama Canal tolls, to promulgate laws and regulations for asserting the police power in the Zone, and for levying excise, license, and franchise taxes. In 1914, Congress gave the President power to suspend provisions of the Seamen's Act "whenever, in his discretion, the needs of foreign commerce may require." In 1919, Congress gave the President power to exclude any alien he "shall find that the public safety requires." In 1922, Congress, by statute, granted to the President the power to raise or lower tariff duties within a range of 50 per cent; this power may be constitutionally valid, but if it is not the actual exercise by the President of legislative authority, it is difficult to say what it is. In 1926, Congress, by the Federal Aviation Act, vested the President with immensely broad power to set apart and regulate airspace reservations, not only for governmental purposes, but for the extensive purpose of the "public safety"—an almost unlimited discretion. In various other years the President has been authorized to execute and enforce interstate quarantine regulations of the Secretary of the Treasury, and "adopt such measures as in his judgment shall be necessary," in case state or municipal authorities shall fail to enforce the said regulations; he has been authorized to suspend immigration in case of danger of disease; to suspend importation of any food or drink "adulterated to an extent dangerous to the health or welfare of the people of the United States;" to prevent export of helium gas; to allow foreign yachts to enter without duties or tonnage taxes; to waive provisions as to eight-hour day on public contracts; to prevent the landing of submarine cables on our shores. The President has even been granted power to annex territory to the United States; for, by an act of Congress, whenever a United States citizen discovers guano on any rock or island not legally claimed by another government or its citizens, such rock or island may "at the discretion of the President be considered as appertaining to the United States." (Act of August 18, 1856, chap. 164), (11 Stat. at L. 119, chap. 164), Rev. Stat. § 5570, U. S. C. title 48, § 1411. See Jones v. United States (1890) 137 U. S. 202, 34 L. ed. 691, 11 Sup. Ct. Rep. 80.)

Most of this congressional legislation places in the hands of the President arbitrary power, to be exercised at his absolute will and discretion, and on his uncontrollable determination of facts. It may be held constitutional by the courts; but in spirit and essence it is a decided departure from the republican principle of a "government of laws and not of men." We are here confronted, not with executive usurpation, but with legislative abdication. . . .

The trend towards abdication of power is even more pronounced when one stops to realize the extent to which Congress has authorized executive officials other than the President to control the conduct of the citizen by mere executive or administrative regulations. Such statutory authority to make regulations which shall have the force of positive Federal law, binding as such upon individuals, has been granted by Congress to executive departments and commissions over a wide and constantly increasing field of subjects. Should all these regulations, which are binding as law, be brought together in one book, it would constitute a volume of over one thousand pages. Every citizen is subject to-day to this vast bulk of law made by Federal executive departments or commissions (and frequently, in practice, by minor officials); and yet to-morrow every one of these regulations may be changed by the sole whim or judgment of a department or bureau head. . . .

Moreover, when Congress enacts a law, it places it upon the statute book where all may see and read, and be governed thereby. But when Congress authorizes a department head or bureau chief to make regulations which shall have the force of law, and violations of which shall be crimes, it

makes no provision as to publication and promulgation of these regulations; it makes no provision as to notice to persons affected; and it makes no provision as to methods of changing these departmental laws.

. . . Bureaucracy does not mean merely extension of power in executive departments. It means the creation of a state of mind in executive officials; the adoption of that mental attitude towards the citizens of this country which leads officials to act upon the assumption that the rules of law and of conduct which must govern and control the private citizen are not applicable to the government and its officials.

. . . In other words, while a private citizen must obey the law as decided by a Federal Court until that decision is reversed by the Supreme Court, the government officials may disobey that law, so decided, until the decision is affirmed by the Supreme Court. That is the typical result of bureaucratic rule.

All this imposition of law and creation of criminal offenses by executive or administrative regulation, all this vesting of arbitrary power in executive officials, is a far cry from the type of "government of laws and not of men," which John Adams wrote into his Constitution, and which the framers of the Federal Constitution adopted as their theory of government.

. . . One remedy at least is possible and at hand—namely, that Congress can do its duty; it can reassume its functions of legislation, at least when personal liberty is involved; it can pay more attention to the details of the subjects on which it legislates; it can, as far as practicable, desist from shifting its responsibility and from availing itself of the easy expedient of authorizing bureaucratic officials to regulate the conduct and to prescribe the criminal offenses of citizens of the United States; and it can limit the scope of departmental regulations, and make provisions as to their proper promulgation and methods of change.

Quips and Cranks and Wanton Wiles, Nods and Becks and Wreathéd Smiles.
—Milton's L'Allegro.

Reason for Complaint.—Tottenham Magistrate (to a woman complainant) —"What do you know against this man?" The Woman—"Only that he is my husband."—Police Gazette.

Some Speed.—An energetic young lawyer had picked up quite a good practice in damage suits, personal injuries and so on, with the inevitable result that some of his friends twitted him with being an "ambulance chaser."

"Are you really an ambulance chaser?" queried one of them, smilingly.

"I should say not," responded the shining legal light. "If the ambulance wants to get here it has to follow me!"
—Montreal Gazette.

A Strong Recommendation.—A middle-aged man who looked very down and out applied for the post of gardener to the squire of a country village. He was interviewed by the head gardener.

"How long were you at your last place?" was one of the first questions the applicant had to answer.

"Ten years," he replied without hesitation.

"Were you recommended to go?" continued the head gardener, who was rather suspicious as to the character of the man in front of him.

"YYes, sir; I was recommended to go there by an eminent Judge and twelve other gentlemen."
—Brooklyn Citizen.

Necessity for Speed.—Chicago Judge: "Going sixty miles an hour, huh?"

Gangster: "Had to, Judge; it was a stolen car."

Chicago Judge: "Case dismissed."
—Wesleyan Wasp.

A Mathematical Description.—A witness was testifying in a case concerning cubic measure, but it was evident from his loose, vague talk that he didn't know exactly what cubic measure was. The judge, to test him, said:

"Now friend, look at this inkstand. Let us assume that this inkstand is one yard across the top this way, and one yard across the top that way, and one yard deep, how would you then describe it?"

The witness chuckled: "I'd say, judge, she was some inkstand."

No Debutante.—Judge—Were you ever arrested before?

Defendant—Arrested before! I ask you do I look like a bud just making my debut? —London Gaiety.

Prices to Suit.—Judge: "Ten dollars fine.

College Student: "Can you change a twenty?

Judge: Nope. Twenty dollars fine.
—Reserve Red Cat.

Not Three Handed.—A Chicago judge asked a policeman why he didn't seize the thief when he was right up on him.

"How could I, your Honor?" the cop replied. "I had my club in one hand and my revolver in the other."

A Decisive Battle.—Hobbs—I understand Tom and his wife just had their first quarrel. Was it serious?

Dobbs—Very. He gave in and thus established a precedent.

A Positive Forecast.—Attorney—Don't worry, you won't be convicted. The jury will disagree.

Client—What makes you think so?

Attorney—I'm absolutely positive. Two of the members of the jury are man and wife.

Logic.—Judge—If you could not afford to pay for it why did you insist on having the very best wine in the restaurant?

Accused—Well, I said to myself, I can't pay in any case so why not have the best?

Said Too Much.—English Magistrate—You are charged with being drunk. What have you to say?

Prisoner—Never been drunk in my life, your worship, and I never intend to be—it makes me feel so rotten in the morning. —New Zealand Leader.

Taking No Risks.—An Irishman, who had been advised by his solicitor to plead guilty as a first offender, stood in the dock.

"Are you guilty or not guilty?" asked the magistrate.

"Guilty, yer Honor, and I've got witnesses to prove it," replied the prisoner. —Weekly Telegraph.

Denial of Privileges.—Judge: "You are charged with running your car sixty miles an hour, smashing a telegraph pole, going through a plate glass window, and injuring six people. What do you say?"

Young Lass: "Don't the fifteen dollars I pay for my license entitle me to any privileges?" —Wabash Caveman.

Real Marriage Not Affected.—She—I suppose you know Alice married money.

He—Oh, yes. They're separated now, aren't they?"

She—No—just she and her husband are separated. —Life.

Questions.—First Lawmaker—What were the points brought at the hearing this afternoon?

Second Lawmaker—Well, mostly interrogation points.

Ideal Tenants.—Knicker—There's a fellow that is never bothered or troubled by his tenants. They never even kick about the rent.

Bocker—Lucky fellow. Where's his property?

Knicker—A cemetery on the edge of the town.

Quenching the Judge.—Magistrate—Prisoner, you are charged with habitual drunkenness. What excuse have you to offer?

Offender (brightly)—Habitual thirst, your worship. —Answers.

Well Done.—Prisoner: "Your Honor, I'm merely a poor half-stewed man from the West."

Judge: "I'm a hard-boiled chap from Maine. Thirty days."

A Hung Jury.—Hubby—Well, the great murder case ended in a hung jury.

Wifie—Great heavens, did they hang the jury and let the murderer go free?

Protecting the Lizzies.—A county policeman requests us to state that all persons caught running a car under 16 years of age, or a person running a car drunk will be prosecuted. —Georgia paper.

Motorists, Beware!—Mike Gearshift was being tried for violating the traffic regulations at Squashville.

"The court has taken your case into consideration, Mr. Gearshift," said the judge, "and in view of what ye've said, and with some trewth, about the badness of our roads hereabouts in your sworn testimony, I've decided not to fine ye $500, as the law permits."

"That's very square of you, Judge," said Gearshift.

"We try to be square, Mr. Gearshift," said the judge, "and, instead of the $500 fine, we're goin' to sentence ye to work on them roads for 10 days, in the hope that your sooperior wisdom as a road expert will make 'em consid'rably better. Next case!" —The Pathfinder.

The Bridegroom's Lament.—The Lawyer—I wouldn't complain about that if I were you. It's an old custom to throw

shoes at a bridal couple. It's supposed to bring luck.

The Bridegroom—Then I must have been out of luck. These were horseshoes and I stopped a couple.

—Kansas City Star.

Better Step on It.—"Pa," said the kid, "what is meant by being 'twixt the devil and the deep sea?"

"It is the position a man is in, son, when the traffic cop signals to stop and the back-seat driver orders him to go ahead," replied his dad.

—Washington Star.

Vigilant Law Officer Had Seen 'Em Doing It.—Speeding across the country from Los Angeles to New York by motor, two motion-picture celebrities were held up by the constable in a small town and, as usual, the officer had all the advantages on his side. He refused to give them a ticket, and finally compromised by taking them directly before the judge.

The constable was very hot under the collar and declared he would make it hot for them, but the couple were hardly prepared for the outraged officer's charge in court.

"Your Honor," he announced pompously, "this is a couple of motion-picture people an' the charge I'm preferrin' against them is arson."

"Arson!" roared one of the accused. "What do you mean! We were never out of our car till you flagged us!"

"You was burnin' up the road, and I'm preferrin' the charge of arson against you," insisted the constable, - d even the court had to laugh as he let them off with a five dollar fine.

—Dansville Breeze.

He Wanted Credit.—Magistrate: "The evidence shows that you threw a brick at this constable."

Burly One: "It shows more'n that—it shows I hit him." —Bergen Herald.

Nothing Left for the Court.—Judge—Have you anything to offer the court before sentence is passed upon you?

Prisoner—No, yer Honor; me lawyer took me last dollar.

—Vancouver Province.

Why Court Adjourned.—Two lawyers in court were engaged in a heated quarrel. Hotter and hotter it waxed. "You're the biggest ass in this room!" cried one.

"Order! Order!" called the judge, "you forgot that I am here!"

—Philadelphia-Building.

Mercy Suggested.—Maybelle—I'm engaged to a struggling young lawyer.

Clarice—Then why not release the poor fellow from his promise?

—Pathfinder.

Traced to the Border.—Lady: "Have your ancestors ever been traced?"

Patrick: "Sure, lady, they have. My grandfather was traced as far as Mexico and there they lost his trail."

The Perfect Witness.—Lawyer—The cross-examination did not seem to worry you much. Have you had previous experience?

Client—Six children.

—Staffordshire Sentinel.

Got the Works.—Magistrate: How many times have you been in a court of justice?

Hard Case: Never in my life; but I have been before you several times.

—Answers.

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